

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 130

HOUSE BILL 2288

AN ACT

AMENDING SECTIONS 41-2162, 41-2163, 41-2164 AND 41-2165, ARIZONA REVISED
STATUTES; RELATING TO THE STATE FIRE MARSHAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-2162, Arizona Revised Statutes, is amended to
3 read:

4 41-2162. Deputy fire marshals and assistants; appointment;
5 duties; recovery of costs

6 A. The state fire marshal may, with the approval of the director:

7 1. Hire deputy fire marshals who shall have knowledge in the field of
8 fire safety and have at least five years' experience in fire safety and hire
9 such other assistants and employees as are necessary to properly discharge
10 the duties imposed ~~upon~~ ON the state fire marshal pursuant to this article.

11 2. Appoint as assistant fire inspectors any of the fire chiefs of a
12 city, town, county, volunteer fire company or protective district OR AN
13 EMPLOYEE OF A PRIVATE FIRE SERVICE PROVIDER WHO MEETS THE REQUIREMENTS OF
14 THIS SECTION to act within their area of jurisdiction OR AREA OF SERVICE or
15 ~~upon~~ ON the recommendation of the fire chief appoint other assistant fire
16 inspectors if needed to function within the jurisdiction.

17 3. Appoint other assistant fire inspectors WHO MEET THE REQUIREMENTS
18 OF THIS SECTION as are necessary in areas ~~which~~ THAT are not under the
19 jurisdiction of a fire chief designated in paragraph 2 who may be employees
20 of this state, ~~or~~ the federal government OR A PRIVATE FIRE SERVICE PROVIDER.

21 B. ASSISTANT FIRE INSPECTORS APPOINTED PURSUANT TO SUBSECTION A SHALL
22 CARRY OUT THEIR DUTIES ONLY WITHIN THE GEOGRAPHIC AREAS ASSIGNED BY THE STATE
23 FIRE MARSHAL. WHEN DESIGNATING ASSISTANT FIRE INSPECTORS AND WHEN ASSIGNING
24 GEOGRAPHIC AREAS, THE STATE FIRE MARSHAL SHALL GIVE A PREFERENCE TO ASSIGNING
25 ASSISTANT FIRE INSPECTORS TO THE SERVICE AREA COVERED BY THE MUNICIPAL OR
26 PRIVATE FIRE SERVICE PROVIDER WHERE THE ASSISTANT FIRE INSPECTOR IS EMPLOYED.

27 ~~B.~~ C. Assistant fire inspectors appointed under subsection A,
28 paragraph 2 or 3 are not entitled to receive additional compensation for
29 performing duties under this article, EXCEPT THAT AN EMPLOYEE OF A PUBLIC OR
30 PRIVATE FIRE SERVICE PROVIDER WHO ACTS AS AN ASSISTANT FIRE INSPECTOR MAY
31 CHARGE FEES TO RECOVER COSTS INCURRED IN CONDUCTING INSPECTIONS OR FOR THE
32 REVIEW OF PLANS AND INSPECTIONS OF PROPERTY. Assistant fire inspectors
33 appointed under subsection A, paragraph 2 or 3 OR FIRE INSPECTORS APPOINTED
34 PURSUANT TO SUBSECTION E shall have attended fire inspector training ~~and~~
35 ~~shall be tested and certified by the state fire marshal.~~ BY AN ENTITY THAT
36 MEETS NATIONALLY RECOGNIZED STANDARDS AND IS APPROVED BY THE STATE FIRE
37 MARSHALL.

38 D. AN ASSISTANT FIRE INSPECTOR WHO IS APPOINTED PURSUANT TO SUBSECTION
39 A MAY INSPECT PROPERTY, ISSUE NOTICES OF VIOLATION AND ENFORCE THE
40 JURISDICTION'S FIRE CODE. AN ASSISTANT FIRE INSPECTOR WHO IS APPOINTED
41 PURSUANT TO SUBSECTION A SHALL REPORT ALL ACTIONS TAKEN TO THE STATE FIRE
42 MARSHAL IN A MANNER PRESCRIBED BY THE STATE FIRE MARSHAL.

43 E. A CITY, TOWN OR COUNTY MAY APPOINT A FIRE INSPECTOR FROM ONE OR
44 MORE PUBLIC OR PRIVATE FIRE SERVICE PROVIDERS WHO SERVICE AREAS IN THE CITY,
45 TOWN OR COUNTY TO INSPECT PROPERTY. CITY, TOWN OR COUNTY FIRE INSPECTORS MAY

1 ISSUE NOTICES OF VIOLATION AND ENFORCE THE FIRE CODE ON BEHALF OF THE CITY,
2 TOWN OR COUNTY WITHIN THE RESPECTIVE SERVICE AREA OF THE PUBLIC OR PRIVATE
3 FIRE SERVICE PROVIDER. A FIRE INSPECTOR SHALL REPORT ALL ACTIONS TAKEN TO
4 THE CITY, TOWN OR COUNTY MANAGER. A FIRE INSPECTOR WHO IS APPOINTED PURSUANT
5 TO THIS SUBSECTION IS NOT ENTITLED TO RECEIVE ADDITIONAL COMPENSATION FOR
6 PERFORMING DUTIES ON BEHALF OF THE CITY, TOWN OR COUNTY, BUT MAY CHARGE FEES
7 TO RECOVER THE COSTS FOR REVIEW OF PLANS AND THE INSPECTION OF PUBLIC OR
8 PRIVATE PREMISES.

9 F. THE STATE FIRE MARSHAL, DEPUTY FIRE MARSHAL, ASSISTANT FIRE
10 INSPECTORS OR A FIRE INSPECTOR WHO IS APPOINTED PURSUANT TO THIS SECTION MAY
11 INSPECT BUILDINGS AND PREMISES IN RESPONSE TO AN EMERGENCY CALL OR AT THE
12 REQUEST OF THE OCCUPANT OF THE PUBLIC OR PRIVATE PROPERTY.

13 G. THE AMOUNT OF THE FEES CHARGED BY A FIRE INSPECTOR OR AN ASSISTANT
14 FIRE INSPECTOR SHALL BE AVAILABLE AT THE OFFICE OF THE STATE FIRE MARSHAL OR
15 THE CITY, TOWN OR COUNTY WHERE THE PROPERTY IS LOCATED.

16 Sec. 2. Section 41-2163, Arizona Revised Statutes, is amended to read:

17 41-2163. Powers and duties; arson investigators

18 A. The state fire marshal OR A DEPUTY FIRE MARSHAL OR AN ASSISTANT
19 FIRE INSPECTOR ACTING AT THE DIRECTION OF THE FIRE MARSHAL shall, under the
20 authority and direction of the director:

21 1. Assist in the enforcement of state laws and ordinances of cities
22 and counties relating to fire prevention and fire protection.

23 2. Enforce compliance with the fire code adopted by the state fire
24 safety committee throughout the state except in any city having a population
25 of one hundred thousand persons or more ~~which~~ THAT has in effect a nationally
26 recognized fire code, whether modified or unmodified, and ~~which~~ THAT has
27 enacted an ordinance to assume such jurisdiction from the state fire safety
28 committee. Such cities do not have authority that supersedes and are not
29 exempt from the state fire safety committee's established fire code in state
30 or county owned buildings and public schools wherever located throughout the
31 state.

32 3. Cooperate and coordinate with other state agencies in the
33 administration of the state fire code.

34 4. Establish a regularly scheduled fire safety inspection program for
35 all state and county owned public buildings and all public and private school
36 buildings wherever located throughout the state, except for private school
37 buildings in cities with a population of one hundred thousand or more persons
38 according to the last decennial census.

39 5. Inspect as necessary all other occupancies located throughout this
40 state, except family dwellings having fewer than five residential dwelling
41 units and occupancies located in cities with a population of one hundred
42 thousand or more persons according to the last decennial census.

43 6. At the written request of county or municipal authorities, make and
44 provide to them a written report of the examination made by the state fire
45 marshal of any fire within their jurisdiction.

1 7. Compile, update as necessary and make available to the public a
2 fully indexed and cross-referenced list of all rules adopted by state
3 agencies and departments and agencies and departments of political
4 subdivisions of this state relating to the control of all hazardous materials
5 as defined in section 28-5201 and all federal regulations relating to the
6 control of hazardous materials as defined in section 28-5201 for which there
7 is no state regulation.

8 8. Establish and maintain a library of all rules and regulations
9 identified in the index required by paragraph 7 of this subsection and
10 support the regulated industry's request for information through research or
11 referral to the agency adopting the specific rule for technical information
12 or other assistance as circumstances dictate.

13 9. Administer the arson detection reward fund established by section
14 41-2167.

15 B. The state fire marshal and this state are not liable for damages
16 caused by information ~~which~~ THAT is omitted from the rules and federal
17 regulations compiled pursuant to subsection A, paragraph 7 of this section.

18 C. All plans and specifications for new construction, remodeling,
19 alterations and additions for state, county and public school buildings and
20 grounds shall be submitted to the director for review and approval by the
21 state fire marshal ~~prior to~~ OR AS AUTHORIZED TO A DEPUTY FIRE MARSHAL OR AN
22 ASSISTANT FIRE INSPECTOR ACTING AT THE DIRECTION OF THE FIRE MARSHAL BEFORE
23 construction. The plans and specifications shall be reviewed and approved or
24 disapproved within sixty days of submission. No construction shall commence
25 until the plans have been approved and a permit has been issued.

26 D. The state fire marshal OR A DEPUTY FIRE MARSHAL OR AN ASSISTANT
27 FIRE INSPECTOR ACTING AT THE DIRECTION OF THE STATE FIRE MARSHAL may, under
28 the authority and direction of the director:

29 1. Conduct or participate in investigations of causes, origins and
30 circumstances of fires, including cases of possible arson.

31 2. Prescribe a uniform system of reporting fires and their causes and
32 effects.

33 3. Provide and coordinate training in fire fighting and fire
34 prevention and cooperate with educational institutions to provide and further
35 such training.

36 4. Impound necessary evidence in conjunction with investigations of
37 causes, origins and circumstances of fires, in the event that such evidence
38 might be lost, destroyed or otherwise altered if not so impounded.

39 5. Employ specialized testing services to evaluate evidence and
40 conditions involved in fire investigations.

41 6. Designate certain members of the state fire marshal's staff OR A
42 DEPUTY FIRE MARSHAL OR AN ASSISTANT FIRE INSPECTOR as arson investigators.

43 E. The primary duty of investigators designated pursuant to subsection
44 D, paragraph 6 of this section is the investigation, detection and
45 apprehension of persons who have violated or are suspected of violating any

1 provision of title 13, chapter 17. A person designated as an arson
2 investigator, while engaged in arson investigation in this state, possesses
3 and may exercise law enforcement powers of peace officers of this state.
4 This subsection does not grant any powers of peace officers of this state to
5 arson investigators other than those necessary for the investigation,
6 detection and apprehension authority granted by this subsection. Any
7 individual designated as an arson investigator shall have law enforcement
8 training under section 41-1822.

9 Sec. 3. Section 41-2164, Arizona Revised Statutes, is amended to read:

10 41-2164. Inspection; consent; search warrant

11 A. The fire marshal or ~~his designated representative~~ A DEPUTY FIRE
12 MARSHAL OR AN ASSISTANT FIRE INSPECTOR may investigate fire damage and shall
13 carry out periodic inspection programs of buildings and premises to examine
14 or inspect for fire hazards.

15 B. In carrying out such inspections or investigations the fire marshal
16 or ~~his designated representative~~ A DEPUTY FIRE MARSHAL OR AN ASSISTANT FIRE
17 INSPECTOR shall identify himself to the owner or tenant of such building or
18 premises and seek the consent of such owner or tenant to carry out such
19 inspection. If such consent is refused, or it is not possible to reasonably
20 obtain consent, the fire marshal or ~~his designated representative~~ A DEPUTY
21 FIRE MARSHAL OR AN ASSISTANT FIRE INSPECTOR shall obtain a search warrant for
22 such building or property in compliance with ~~the provisions of~~ title 13,
23 chapter 38, article 8.

24 C. ~~When~~ IF the fire marshal is assisting a local fire department in an
25 investigation of fire damage, the authority of the local fire department to
26 investigate ~~such~~ THE fire damage shall be deemed to include the fire marshal
27 or ~~his designated representative~~ A DEPUTY FIRE MARSHAL OR AN ASSISTANT FIRE
28 INSPECTOR.

29 Sec. 4. Section 41-2165, Arizona Revised Statutes, is amended to read:

30 41-2165. School protection; definition

31 A. The fire marshal OR A DEPUTY FIRE MARSHAL OR AN ASSISTANT FIRE
32 INSPECTOR shall enforce rules and regulations for establishing programs for
33 evacuating school buildings and for instructing all students in public and
34 private schools as to proper methods of fire prevention and control and of
35 the importance thereof. Such rules, regulations and programs shall be
36 transmitted to the department of education for distribution to such schools.

37 B. FOR THE PURPOSES OF THIS ARTICLE, "school" ~~as used in this article~~
38 ~~refers to~~ MEANS an educational institution of any description, public or
39 private, wherever situated in this state.

APPROVED BY THE GOVERNOR APRIL 23, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2010.